

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT DAVID DUPUIE,

Defendant-Appellant.

UNPUBLISHED

March 16, 2004

No. 245450

Saginaw Circuit Court

LC No. 02-021210-FH

Before: Zahra, P.J., and Saad and Schuette, JJ.

MEMORANDUM.

Defendant was found guilty by a jury of being a prisoner in possession of a weapon, MCL 800.283(4), and was sentenced as a second habitual offender to 2-½ to 7-½ years' imprisonment. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

During a search of defendant's cell at the Freeland Correctional Facility on April 20, 2001, an officer discovered an 8-½ inch homemade knife and strips of cloth, some of which were tied around batteries, in his locker. Defendant sought to quash the information charging him with being a prisoner in possession of these weapons on grounds that he was not promptly arraigned and that he was denied the right to a speedy trial. On appeal, he challenges the trial court's denial of this motion.

Defendant first argues that the information should have been quashed because of the delay between issuance of the warrant on June 20, 2001 and his arraignment on February 4, 2002. However, the authorities he cites proscribe unnecessary delay between *arrest* and arraignment. See MCR 6.104, MCL 764.26 and MCL 764.13, Const 1963, art 1, § 17, and *People v Mallory*, 421 Mich 229; 365 NW2d 673 (1984). None of these authorities speak to a delay between issuance of the *warrant* and an arraignment.

Defendant also argues that the information should have been quashed because his right to a speedy trial was violated due to the delay between warrant and arraignment. Although he speaks of the right to a speedy trial, he references the 180-day rule. This rule does not apply since the defendant was an inmate of a state correctional facility when he committed the crime. See MCL 780.131(2)(a). To the extent defendant is claiming that his right to a speedy trial was violated, he would be required to show prejudice since the delay was less than 18 months.

People v Wyngaard, 151 Mich App 107, 112; 390 NW2d 694 (1986). Defendant has not demonstrated any prejudice.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette